

PLANNING BOARD MINUTES

August 8, 2007

Board members present:

Art Weber, Chairman Ron Wolanski, Town Planner

Jan Eckhart Frank Holbrook, Town Solicitor

Richard Adams

Audrey Rearick

Frank Forgue

Betty Jane Owen

Member absent:

John Tucker

The meeting was called to order at 6:30 pm.

Mr. Weber announced that John Tucker has submitted a letter of resignation to the Town Council citing health concerns. He noted Mr. Tucker's years of dedicated service on the board, and stated that he will be sorely missed. Other Board members agreed.

Minutes

Motion by Ms. Rearick, seconded by Ms. Owen, to approve the minutes of the July 11, 2007 regular and special meetings. Vote : 6-0-0.

Old Business

1. Public Hearing (continued) - Karmik, LLC, Proposed 6-lot major subdivision, Plat 120 Lot 46, Prospect Ave. & Aquidneck Ave.

Request for Preliminary Plan approval

There was no one present to represent the applicant.

Mr. Wolanski stated that the applicant's attorney, Mr. Silva, had indicated that a continuance would be requested.

Motion by Ms. Rearick, seconded by Ms. Owen, to continue this matter, keeping the public hearing open, to the September 12, 2007 Planning Board meeting. Vote: 6-0-0.

2. Segerson Subdivision, Greene Lane, Plat 105, Lots 4b & 4c – Request for 30-day extension of subdivision approval

There was no one present to represent the applicant.

Mr. Weber stated that he was aware that the applicant was proceeding with work to comply with the conditions of approval.

Motion by Ms. Rearick, seconded by Mr. Forgue, to grant an additional 30-day extension of the subdivision approval. Vote: 6-0-0

3. Request of the Zoning Board of Review for an advisory recommendation pursuant to Section 1501 of the Zoning Ordinance regarding a request for approval for multi-family residential development – 985 East Main Road, LLC, Request to develop a 36-unit multi-family dwelling project, located at 985 East Main Rd., Plat 118, Lot 20.

Mr. Weber recused himself from the discussion. Board Secretary Mr. Eckhart presided.

Attorney David Martland represented the applicant. He stated that his client had not yet arrived.

Motion by Ms. Owen, seconded by Ms. Rearick, to table the matter until the applicant arrives. Vote: 5-0-0

4. Update – Conservation Subdivision ordinance amendment

5. Update – Preparation of draft mixed-use zoning ordinance amendment

Mr. Weber indicated that the draft ordinances for mixed-use zoning and conservation development have been provided. The Town Planner has recommended that a special meeting be held to allow for public review and input on the drafts.

By consensus the Board decided to hold a special meeting on September 5th beginning at 6pm. Each ordinance would be discussed separately.

6. Update – Atlantic Beach District Master Plan

Mr. Weber indicated that the consultant is in the process of providing the final plan. The Town Council has elected to hold a special meeting to accept public input prior to consideration of whether to adopt the plan.

7. Consideration of proposed amendments to the Middletown Zoning Ordinance.

Mr. Wolanski presented proposed amendments to the Middletown Zoning Ordinance. The amendments address some corrections and clarifications that are necessary following the adoption of the comprehensive zoning ordinance amendment in October 2006.

Mr. Weber asked the Board if there were any concerns. There were

none raised.

Motion by Ms. Owen, seconded by Ms. Rearick, to forward a recommendation to the Town Council that the proposed amendments be adopted. Vote: 6-0-0.

New Business

8. Shirley Bally, Proposed 2-lot subdivision, Plat 117, Lot 12A, Oliphant Lane & Coggeshall Way. Request for Preliminary Plan approval.

The applicant was represented by her son, Dion Bally.

Mr. Weber stated that he had reviewed the proposal and is familiar with the property. He suggested that because the plan meets all town zoning requirements that the Board could consider the plan for approval.

Others on the Board agreed that there appear to no significant issues with the proposed plan.

Mr. Wolanski stated that the applicant has yet to satisfy all of the submission requirements. If the approval is considered, it should be subject to conditions relating to the required materials.

Motion by Mr. Adams, seconded by Mr. Forge, to grant preliminary and final subdivision plan approval subject to the following conditions:

1. Certification from the appropriate utilities that the proposed new building lot could be served by public water and sewer must be provided prior to recording.

2. Regarding the requirement for storm water drainage plans, the following note must be added to the plan prior to recording: “All

development must comply with provisions of Town Code Chapter 151, Construction Site Runoff Control, and Chapter 153, Storm Water Control Ordinance.”

3. Development of the proposed new building lot would be subject to development impact fees. The following note must be added to the plan prior to recording: “The Town has implemented development impact fees which apply to any new commercial and residential development in town. Impact fees as specified in Town Code Chapter 150 will be assessed at the time of development of proposed parcel A.”

4. Prior to recording the appropriate review fee for final approval must be provided (\$160).

Vote: 6-0-0

9. Antonio Souto. Request for conceptual review. Proposed 2-lot subdivision, Plat 129 Lot 19, Wapping Rd.

Mr. Souto was present. He provided a conceptual plan for a two-lot subdivision that would result in one new development lot with less than the required frontage.

Mr. Weber stated that he had reviewed the proposal and was concerned by the proposed reduced frontage lot. He could not support the plan as proposed.

Some of the other board members agreed.

Mr. Souto was advised that he could still choose to file a formal application, but the plan might not be approved. At that point there is an appeal process that could be considered. He was advised to speak to the Town Planner regarding the options.

10. 26 Valley Road Condominium Association, Plat 107NE, Lot 1600, Request for Development Plan Review for a proposal to re-side an existing commercial building.

William Dwyer, President of the 26 Valley Rd. Condominium Association was present. He described the request to re-side an existing commercial building with vinyl siding.

A sample of the proposed vinyl siding was provided to the Board.

Several members of the Board indicated their support for the proposal, stating that the work would improve the appearance of the building.

Motion by Ms. Rearick, seconded by Mr. Forgue, to approve the application, including the use of synthetic siding materials under the provisions of Subdivision and Land Development Regulations Section 521.2.C. Vote: 6-0-0.

11. Peter Reed, Aquineck Ave., Request for Development Plan Review for a proposed new 3,200 sq.ft. commercial building to be used to store and display antique fire apparatus

Peter Reed was present, as was his engineer, Ed Lopes, PE. Mr. Reed described the proposal.

Mr. Weber stated that he had no concerns with the proposal, particularly given that the proposed building would have only limited visibility from Aquidneck Ave.

Mr. Reed confirmed that the property would be accessed directly from the parking lot on the abutting property.

Mr. Wolanski stated the Town Engineer and the applicant are continuing to resolve the design for the stormwater drainage system.

If the plan is approved a condition should be applied to ensure that the drainage design is acceptable.

Mr. Adams asked about the proposed use and the fact that there is to be no water or sewer provided to the building.

Mr. Reed stated that the building would have limited public use. Temporary provision of restroom facilities would be addressed on an as-needed basis.

Motion by Mr. Adams, seconded by Mr. Forgue, to waive certain provisions of the design requirements of Subdivision and Land Development Regulations Section 521, and approve the application subject to the following conditions:

1. The site drainage plan must be revised to the satisfaction of the Town Engineer prior to the issuance of building permits.
2. The applicant has secured access to the property through the abutting Sturms property. No new access to Aquidneck Ave. will be required. The site plan must be revised to eliminate the proposed new access.

Vote: 6-0-0

12. Additional New Business

Attorney Robert Silva asked that the Board consider an application that had been forwarded by the Zoning Board of Review. The application, which is a request for a special use permit to allow development within Zone 1 of the Watershed Protection District, was provided to the Planning Department in time to be placed on the Planning Board's agenda. He requested that the Board consider scheduling a site visit in order that the application could be acted

upon at the Planning Board's September meeting.

Mr. Weber stated that the Board's policy is to not consider items that do not appear on the meeting agenda. The application will be considered at the September meeting

Old Business

13. Request of the Zoning Board of Review for an advisory recommendation pursuant to Section 1501 of the Zoning Ordinance regarding a request for approval for multi-family residential development – 985 East Main Road, LLC, Request to develop a 36-unit multi-family dwelling project, located at 985 East Main Rd., Plat 118, Lot 20.

Mr. Weber recused himself from the discussion. Board Secretary Mr. Eckhart presided.

Attorney David Martland represented the applicant. He described the process to date including the attempts his client has made to try to address the concerns of the abutting property owners. The applicant met on several occasions with the abutters. He stated that in addition to the need for a special use permit, the proposal would require zoning relief for nonconformity with some of the requirements of Article 15 as well as the use. He is seeking a recommendation to the Zoning Board of Review on the special use permit application.

Mr. Martland introduced Steve Chapman, the applicant. Mr. Chapman described his business and experience, and recent examples of his work in the area.

Mr. Chapman presented a revised rendering of the proposed building exterior. He has attempted to address concerns previously raised by

the Planning Board. Materials would include wood shingle and clapboard, and stone.

Mr. Chapman has explored other options for the redevelopment of the subject property, including a possible hotel and affordable housing. The condominium development is the preferred option. All units would have two bedrooms and be approx. 1,200 sq.ft. in area.

Mr. Adams stated that he is happy with the new architectural renderings. He asked if the proposal meets dimensional requirements.

Mr. Martland stated that the proposal conforms to building setback, height, and coverage requirements. While the proposal does not meet all requirements of Article 15, there is sufficient land area and open space to meet the needs of the development and future residents.

Mr. Eckhart suggested that the discussion should focus on the issues of density, open space requirements, and use.

Mr. Wolanski recommended that the Board focus on the requirements of Article 15 , as this is the section under which the advisory recommendation has been requested.

Ms. Rearick stated that the size of the project is out of character with the surrounding area.

Ms. Owen stated that she is concerned that the plan, with the number of proposed units, would not meet the open space requirements of Article 15.

Mr. Chapman stated that a reduction in the number of units would make the project economically unfeasible.

There was discussion of the open space and density requirements.

Eric Offenbergl, PE, the applicant's engineer, stated that the existing

development on the site does not meet the requirements of Article 15. The open space requirement is based on floor area. Even if the number of units were reduced to meet density limits, for the project to work economically the units might have to be larger. There would still be a problem meeting the open space requirement.

Mr. Martland stated that the fact that the proposal does not meet density and open space requirements does not necessarily result in an adverse impact on the area.

Mr. Offenbergl described the design of the site and the attempt to address possible impacts:

Storm drainage would be addressed;

Buildings are oriented to be perpendicular to the road;

Trees and other vegetative screening, as well as a berm along the frontage, would be provided;

A sidewalk would be provided along the front of the property;

Outdoor lighting would be minimized;

Should result in reduced police/fire response to the property;

The number school children is expected to be minimal;

Recreational facilities will be provided on onsite.

The discussion was opened to the public.

Tim Sheley of 233 Meadow Lane stated that he is president of the East Meadow Homeowners Association. He expressed concern for the density of the project and the size of the buildings. He asked if the proposed number of units could be reduced. He was also concerned that trees that currently screen the property from Meadow Lane could be lost.

Bob Corey of 207 Meadow Lane stated that density is a concern. Based on the requirements for multi-family development, only 14 units would be allowed on the subject property. He also expressed concern that it would be the responsibility of the homeowners association to remove any trees on their property that die as a result of the development.

Celine Rice of 113 Meadow Lane stated that the meetings with the applicant did not result in changes to the plans. Regarding the possible reduction in the number of units, she stated that the economic viability of the project should not be the board's concern. She stated that the proposed swimming pool would not be used due to shade and she questioned whether the units would be marketable. She also expressed concern about screening, stating that the proposed buildings would be visible from her home. She questioned the importance of the expected reduction in police response to the property.

Mary Johnson of 186 Meadow Lane expressed concern over the density of the project and impacts on open space. There would be an increase in the impervious area on the property. She stated that the zoning should not be changed to allow the development.

Mr. Adams asked about the development options for the property.

Mr. Martland stated that, even though the property is zoned R-30, given the existing use, a special use permit could be sought to allow 100-150 room hotel.

Mr. Wolanski stated that due to the nonconforming nature of the existing use, even an attempt to expand the size of the existing units

would require a special use permit.

Lisa Watt, a resident of Portsmouth who has previous experience with the subject property, stated that the proposed addition of trees would address the screening concerns. Current impacts of the property in terms of costs for police response is significant.

Mr. Martland stated that his client is willing to add additional trees on both sides of the property line abutting the homeowners association open space parcel, but this would required the approval of the association. A fence along the property line would also be considered to screen and limit access.

Rosemary Page of 132 Meadow Lane stated that she was concerned that whatever trees are promised should be planted. In other cases requirements have not been met.

Mr. Adams asked if the Board could require tree planting on the association property.

Mr. Wolanski advised that a plan approval not be conditioned to require the planting of trees on the abutting property. Permission of the abutting property owner would be required, and could be withheld.

There was discussion that the Board could recommend a condition that existing trees that die as a result of the development be replaced.

The members of the Board discussed their thoughts on the proposal.

Ms. Rearick stated that the she does not support the plan because it does not meet the density and open space requirements of the Zoning Ordinance, and is not in keeping with the character of the area.

Mr. Forgue stated that even though the buildings would be larger than others in the area, the proposal would improve the property over the existing situation. He supports the plan.

Ms. Owen stated that she agreed with the statement that the economic feasibility of the project should not be a concern of the Board's. The issue is the size of the buildings, the lack of open space, and the impacts on the community. While she likes the architectural design of the buildings she does not support the proposal.

Mr. Adams stated that he tried to determine whether the proposal would result in a better or worse situation for the town. He considered the likely alternatives, including the possibility that the existing situation would continue. He believes that development of a hotel on the property is not likely. In the end the proposed development would improve the existing situation and is a good use of the property. Appropriate measures, including screening, are needed to limit impacts on abutting properties.

Mr. Eckhart stated that he understands the position that the developer is in regarding trying to develop an economically viable project. However, he is concerned with the intensity of the development in relation to the surrounding area. The proposal does not fit within the context of the site.

Mr. Wolanski stated that whether the Board votes to recommend in favor of the plan or not, the recommended conditions provided in his memo of August 6th should be forwarded to the Zoning Board of Review to ensure that unresolved issues are addressed in the event that the plan is eventually approved. The condition regarding tree

replacement could also included.

Motion by Mr. Adams, seconded by Mr. Forgue, to forward a recommendation to the Zoning Board of Review in favor of approval of the plan subject to the conditions recommended by the Town Planner. Vote: 2-3-0, with Ms. Rearick, Ms. Owen, and Mr. Eckhart voting in opposition. The motion failed.

Motion by Ms. Owen, seconded by Ms. Rearick, to forward a recommendation to the Zoning Board of Review in opposition to the proposal, but with the recommendation that if the plan is eventually approved that the following conditions be applied:

1. Additional information requested by the Town Engineer regarding the routing of stormwater runoff once it leaves the development site must be provided and approved by the Town Engineer prior to the issuance of permits.
2. A copy of the existing easement that allows the applicant to discharge to the state storm drainage system as well as the required RIDOT Physical Alteration Permit must be provided for review by the Town Engineer and Town Solicitor prior to the issuance of permits.
3. A drainage maintenance easement covering the storm water drainage facilities should be required. This easement should include the provisions of the maintenance program and would allow, but not require, the town to enter the property to conduct the necessary maintenance should to property owner default. The easement should specify that the property owner would still be responsible all costs associated with performance of the maintenance, and be subject to a lien being placed on the property.

- 4. The plan must be revised to provide for maintenance access to the proposed drainage system.**
- 5. Prior to the issuance of permits, the plans and drainage report must be revised to address missing information and typographical errors identified by the Town Engineer (memo of July 26, 2007) and PARE Corporation (memo of July 27, 2007), subject to approval by the Town Engineer.**
- 6. Prior to certificate of occupancy, the applicant must provide as-built drawings for all utilities, and certification by a registered professional engineer that the project was constructed in accordance with approved plans.**
- 7. Prior to the issuance of permits, plans must be revised to include the location and design of a 24-hour sewage holding tank on the property, with the design and location subject to the approval of the DPW Director and Town Engineer.**
- 8. All components of the proposed sewer system, including pipe and manhole size, location, and condition must be approved by the DPW director prior to approval for connection to the Town sewer system.**
- 9. Prior to issuance of permits, the applicant shall provide revised plans depicting off-site connections to sewer and storm systems, clearly indicating ownership of each segment of proposed and existing facilities.**
- 10. Prior to issuance of permits, a detail for the proposed dumpster pads must be provided for approval by the Town Engineer.**
- 11. Regarding trees located along the easterly property line of the subject parcel, and the visual buffer they provide, care must be taking**

to protect the root systems of existing trees that are proposed to be retained. Any tree shown on the development plans as being preserved, but which dies or must be removed as a result of excavation or development associated with the project, must be replaced by a similar species tree with a trunk diameter no less than 4 inches (dbh). Species and location of replacement trees must be approved by the Middletown Tree Commission prior to planting.

Vote: 3-2-0, with Mr. Adams and Mr. Forgue voting in opposition.

Mr. Martland asked if the Board would consider granting a positive recommendation subject to a reduction in the number of proposed dwelling units.

Mr. Holbrook and Mr. Wolanski agreed that the Board has been asked by the Zoning Board of Review to provide a recommendation on the current proposal. A revised application would have to be submitted for consideration.

Motion by Ms. Owen, seconded by Ms. Rearick, to adjourn. Vote: 6-0-0

The meeting adjourned at 8:00pm